

2 APR 1981

MEMORANDUM FOR:

[REDACTED]
Associate Deputy General Counsel

DDA REGISTRY

STAT

FROM:

Max Hugel

Deputy Director of Administration

FILE: Legal

SUBJECT:

Proposed Revisions to Non-Restriction Sections
of E.O. 12036

REFERENCE:

Memorandum from OGC, dated 1 April 1981, same
Subject (OGC 31-02670)

1. The Directorate of Administration has reviewed the referenced proposed revisions to E.O. 12036 and is appreciative that our previously forwarded suggestions have all been incorporated. We are concerned, however, that the proposed Section 1-X01(K) may be at variance with previous efforts by this Agency to avoid the establishment of minimum, as opposed to common or uniform, security standards. Some background information may be useful to appreciate the nuances because, on the surface, "minimum" may appear very good.

2. In the extant version of E.O. 12036 we have vigorously opposed any change to "minimum" because, you will note, the language reads: "Ensure the establishment by the Intelligence Community etc." (underlining added). We would undoubtedly end up with least common denominator standards. In your version, the DCI is given full power to establish the standards and, therefore, he would have clear authority to see to it that the minimum was not too low. However, a concomitant concern would remain, viz, the latitude for a given agency to establish unacceptably strict standards over and above the DCI's minimum, and to refuse access to anyone who did not meet those standards. "Minimum" virtually invites disparate, more stringent standards and, therefore, militates against Intelligence Community uniformity.

3. Another even more compelling reason exists, however, for our objection to the use of "minimum" and that is the conflicting signals that the Agency would be sending thereby to the White House. Admiral Inman on 12 March 1981 in an attachment to a memorandum to the President requesting cancellation of Presidential Directive/NSC-55 (which established the APEX system) included the following language in a proposed new directive on intelligence special access programs: "Uniform security standards established by the DCI will govern access to,

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distribution of, and protection of intelligence sources and methods, subject to specific statutory requirements applicable to any department or agency." It is recommended that his language be incorporated into your proposed Section 1X01(k).

/s/ William N. Hart

f Max Hugel

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